The Madras Law Journal.

PART XX.] NOVEMBER, 1914. [VOL. XXVII.

COMPENSATION FOR IMPROVEMENTS BY VENDEES FROM LIMITED OWNERS.

In connection with suits to recover immoveable properties sold by limited owners under the Hindu law, such as female heirs, guardians, managers of joint families, fathers with undivided sons, and shebaits or trustees, Courts have often to deal with the plea that even if the sales are not binding on the persons seeking to recover such properties, they must, before getting possession of the properties sold, pay to the defendants—alienees compensation for improvements effected by them after their purchases. The matter is not of much consequence if the improvements can be easily separated from the property sold, for then the alienee can be allowed to remove the improvements and the parties can be restored to the *status quo ante*, though even in such cases the alienees will suffer some detriment and will not get back all that they spent. But where the improvements cannot be so separated, as when new irrigation and drainage facilities are provided for the land purchased, or when boulders or weeds on a land are removed at considerable cost, the question of their right to compensation is of great practical importance. Till the decision of the Privy Council in *Kedarnath v. Mathu Mal* [1] the inclination of judicial opinion seems to have been to negative such an alienee's right to compensation. In that decision, however, the Privy Council confirmed the award of some compensation to such a vendee, and some doubt has been thus raised on this point. As there is no discussion of the question in their Lordships' Judgment one may venture to consider the matter as if it were *res integra*.

The Roman law allowed compensation "to any *bona fide* possessor, as for instance, a creditor, who had spent money in preserving, repairing, or substantially improving an estate." *Domat* lays it down "as a general doctrine that those whose

1. (1913) I. L. R. 40. C. 555.

money has been laid out on improvements of an estate, such as making a plantation, or erecting buildings on it, or augmenting the apartments of a house, or for other like causes, have, by civil law, a privilege upon those improvements, as upon a purchase with their own money." The English law does not take such a wide sweep. It allows compensation for improvements only to persons who have some proprietary interest in the property improved (such as co-owners), and to those who when making the improvements *bona fide believed* that the property was their own. In the latter case, as Lord Cranworth put it in *Ramsden* v. *Dyson* [1] "to raise such an equity, two things are required: first, that the person expending the money supposes himself to be building on his own land; and secondly, that the real owner, *at the time of the expenditure*, knows that the land belongs to him and not to the person expending the money in the belief that he is the owner". The basis of this doctrine is variously stated in the books. Some trace it to an implied contract between the real owner and the person making the improvements. Others would put it on the footing of *estoppel*. "The real owner" they say "should not stand by and suffer such expenditure knowing that the land was his own and that the other person was acting on a mistake." "In conscience he was bound to disclose his title to the builder". In some other places the basis of the doctrine is stated to be that it is inequitable to allow the real owner to get substantial benefits without paying for them, (*ex æquo et bono*), for no man should be allowed to enrich himself at the expense of another.

In India also the right to compensation for improvements has been recognised under certain limitations. The Mesne Profits Improvements Act (XI of 1855) allowed it to "any person erecting a building or making an improvement upon any lands held by him *bona fide* in the belief that he had an estate in fee simple or other absolute estate" in them. The common law of the land also allowed it. Sir Barnes Peacock stated in his judgment in *Thakoor Poramanich* v. *Ramdhone Battacharjee* [2], that it is "clear that according to the usages and customs of this country building and other such improvements made on the land do not by the mere

1. (1865) L. R. 1 H. L. 129. 2. (1866) Beng. L.R. Sup. Vol. 595.

accident of their attachment to the soil become the property of the owner of the soil; and we think it should be laid down as a general rule that if he who makes the improvement is not a mere trespasser, *but is in possession under any bona fide title, or claim of title,* he is entitled either to remove the materials, restoring the land to the state in which it was before the improvement was made, or to obtain compensation for the value of the building if it is allowed to remain for the benefit of the owner of the soil—*the option of taking the building or the removal of the material remaining with the owner of the land* in those cases in which the building is not taken down by the builder during the continuance of any estate he may possess." These principles have been embodied in clause (1) of section 51 of the Transfer of Property Act. According to Sir Ashutosh Mukerjee this section which merely codifies the previous law makes three things necessary to entitle an occupant of immoveable property to compensation for improvements: first, he must have held possession under colour of title; secondly, his possession must have been adverse to the title of the true owner, that is, it must not have been possession by mere permission of another whose title he recognises; and thirdly he must have *acted in good faith, that is, under the honest belief that he has secured good title to the property in question, and is the rightful owner thereof; and for this belief there must be some reasonable grounds such as would lead a man of ordinary prudence to entertain it.* (*Kandarpa Nath Ghose* v. *Jogendra Nath Bose*) 1.

So far it is plain sailing. The difficulty arises in applying these principles to alienees from *limited* owners. All who are not *vendees* cannot satisfy the first two conditions set out above, and are easily disposed of. But vendees pass over those two hurdles easily. It is the third that gives trouble in their case. Can a vendee from a limited owner be said to have had "reasonable grounds to believe that he had an absolute title", in cases where it is ultimately held that his purchase is not valid and binding on the person seeking to set it aside. Ordinarily, such a vendee cannot get an absolute estate. He gets only an estate voidable at the option of the reversionary heirs in cases where the alienor is a female heir (*Modhu Sudan Singh* v. *Rooke*) 2

1. (1910) 12 C. L. J. 391 at 397 and 398. 2. (1897) I. L. R. 25 C. 1.

or at the option of the ward in case he is a guardian, or of the sons in case he is a father. The sale is void and no estate passes in case the alienor is manager of a Hindu family and the other members who question the alienation were adults at the time of the sale, *Kandsami Asari* v. *Somaskanta* [1]. According to the decision in *Hanuman Prasad's case*[2] an alienation by a guardian of a Hindu ward is binding on him,

(1) if the sale was in fact for "*necessity*" or for the benefit of the estate *or*

(2) if the alienee had made proper enquiries and was satisfied that there was such necessity or benefit, and had acted " honestly".

Either of these circumstances would do to protect the alienee, and unless *both* are absent he cannot be ejected, and no question of compensation will arise. In this matter alienees from other limited owners are in the same position, *Kameswara Sastri* v. *Veeracharlu* [3]. Therefore, before the question of compensation can arise, a Court should find that the alienee *had not acted honestly and had not made enquiries as to whether there was legal necessity for the sale or whether it was beneficial,* and a decree in ejectment against him involves such a finding. Can a Court which has found such want of honest-dealing and absence of enquiries, find in *any* case that the alienee *believed in good faith* that he was entitled absolutely to the property aliened when he made the improvements. In other words can a person who has not "acted honestly" by making enquiries, be said to have "good reason to believe that he was absolutely entitled to the property?" I venture to think that he could not be said to have believed *in good faith.* Good faith involves due care and attention, and a person who does not make proper enquiries when he makes the purchase can hardly be said to have "*reasonable grounds such as would lead a man of ordinary prudence to entertain the belief that he was absolutely entitled to it.*" "Believing in good faith" in Section 51 of the Transfer of Property Act means something more than what is commonly understood as acting "honestly" and "fairly". As Justice Stephen put it in *Abhoy Churn Ghose* v. *Attarmoni Dassee*[4] "the expression believing in good faith" must

1. (1910) 20 M.L.J. 371.
2. (1856) 6 M. I. A. 393.
3. (1910) I. L. R. 34 Mad, 422.
4. (1908) 13 C. W. N. 931.

include a due enquiry. "A belief must generally imply good faith"; but " where a man had consciously avoided making an enquiry on any matter, he may nevertheless be said to have a belief on that matter, and that belief would in such a case *not* be a belief in good faith. But looking at the obvious purpose of the section, this would attribute an unduly confined scope to the expression, and if it means more than the absence of a conscious avoidance of enquiry, it must imply necessity for due enquiry." The alienee should have known, or should be *presumed to have known* that a limited owner under the Hindu Law has a right to convey an absolute estate only under certain circumstances. If that be so, his plain duty is to make proper enquiries and satisfy himself as to the existence of those circumstances. If he neglects to do so, he cannot say that he acted as an ordinary man of prudence would have acted, and therefore, there can be no belief in good faith. If he did make those enquiries, and was not satisfied of the existence of necessity or benefit, then in buying the property he could not have acted honestly. If he made the enquiries and was satisfied of the existence of necessity or benefit, his alienation cannot be attacked, and there is no ground for ejecting him and no question of compensation arises. The conclusion seems, therefore, to be irresistible that under Section 51 of the Transfer of Property Act, in no case can a vendee from a limited owner get compensation for *inseparable* improvements.

The case-law on the subject does not compel a different conclusion. The leading authority on this branch of law is the well-known decision of the Full Bench of the Calcutta High Court in *Thakoor Parmanick's case* [1] referred to above. That was a case of alienation by a female heir, and all that was held was that if the plaintiff (reversioner) wanted to keep the buildings erected by the vendee, he must pay for them, and that if he would not pay, the alienee could remove the buildings. It was not decided that the vendee could insist on compensation being paid for them, even if the plaintiff did not want the buildings, or that even if the improvements were not separable, the plaintiff was bound to pay compensation. In *Kandarpa Nath Ghose* v. *Jagendra Nath Bose* [2], Sir Ashutosh

1. (1866) Beng. L. R. Sup. Vol. V, 595. 2. (1910) 12 C. L. J. 391 at 398.

Mukerjee has stated "As a general rule improvements made on a property by a life tenant thereof attach to the estate and pass to the reversioner or the remainderman at the expiration of the life estate without any liability on his part to make compensation therefor. *The same is true of improvements made by a purchaser from one who holds a limited interest, for it is presumed that such purchaser knows the title he acquires.*" The Bombay High Court and Allahabad High Court do not seem to have dealt with this matter *directly* yet. In Madras, the decision in *Nangappa Gounden* v. *Perumal Gounden* [1] deals with a sale by a Hindu widow, and the claim for compensation made by the vendee was negatived. The learned judges observed "What is urged in effect on behalf of the defendant is that even if he knew that he was purchasing the property from Hindu females who could sell it only under specified circumstances and that there was no need for them to sell the land, still he might have believed that he had acquired a good title, or otherwise he would not have spent money on its improvements. No doubt a purchaser may have notice of facts showing a defect in the title of his vendor and yet purchase the property honestly believing that he was buying good title. And we are not prepared to say that good faith within the meaning of section 51 of the Transfer of Property Act is necessarily precluded by facts showing negligence in investigating the title. In fact to hold that every default in investigating the title *ipso facto* makes section 51 inapplicable would be to exclude a very large class of cases from a rule which is based on obvious considerations of justice. But the facts of this case go much further. *The defendant knew or must be presumed to have known, which is the same thing, that the person purporting to sell the property could under the Hindu law sell it only under certain circumstances,* and he either knew that these circumstances did not exist or wilfully abstained from making any enquiries on the subject. *In such a case it is difficult to conceive that the purchaser could have believed, and much less believed in good faith that the vendor conveyed a good title to the property.*"

The presumption that their Lordships refer to above practically makes the question of the existence of good faith in an

1. (1909) I. L. R. 32 M. 530 s. c. 19 M. L. J. 454.

entered into before the Act was passed, the principles embodied in it have been applied. Vide *Rameswar Koer v. Mahomed Mehdi Hossein Khan* [1]. It is unlikely that the Legislature would have framed section 51 as it has been if it was of opinion that alienees could get compensation on other grounds also. Before the Transfer of Property Act was passed, claims based on such other grounds were negatived. See *Moulvie Watedostah* v. *Moulvie Golam Akbur*[2] and *Sohun Singh* v. *Keola Bibee* [3].

Kurnool. C. V. KRISHNASWAMI, *Dt. Munsif.*

NOTES ON CRIMINAL PROCEDURE AMENDMENT BILL.

The Criminal Procedure Bill has been now for some time before the public. Most of its provisions do not involve any question of policy but are merely drafting improvements. Some involve questions of policy but are wholly unexceptionable. For instance, the enlargement of the list of compoundable offences (cl.59), extension of the right of appeal (cl.94) in security cases, cl. 97 to 98), and conferring of larger powers under S. 562 (cl. 97). Cl. 15 adds kidnapping, abduction and uttering of counterfeit coins to the offences for which security can be taken under S. 110. Cl. 99 introduces a welcome and much-needed change. Cl. 112 puts an end to the unseemly spectacle of the Criminal Court enforcing payment of maintenance to an unchaste wife because she is not proved to be living in adultery. Cl. 126 very properly takes away from the High Court the duty of attending to the transfer of petty cases from the file of village magistrates acting under an old Madras Regulation. Cl. 130 empowers judges and magistrates to make local inspection when they consider that a view of the place is necessary. Provision is now made for the investigation of claims to property attached for the realisation of fines, etc. There are however some other provisions whose policy is not so clear and these we propose to consider in this article.

Cl. 8 adds offences in respect of stamps and cheating to the list of offences of which information is to be given by village officers, occupants of houses, etc. The definition of cheating being as it is, it seems to be a little too hard upon occupants of houses to give information as to all kinds of cheating without distinction.

1. (1900) I.L.R. 26 C. 39 (P.C.). 2. (1875) 25 Suth. W. R. 205.
3. 16 Suth. W. R. 169.

The object of the amendment being to secure detection of systematic swindling, it is desirable to confine the section to offences that can appropriately be considered to come under that category. Offences against stamps are no doubt serious offences from the point of view of public revenue but to put them on the same footing as offences in respect of coins, or the other serious offences dealt with by the section is to forget a sense of proportion. Anyhow, it must be sufficient if counterfeiting stamps, selling instruments for counterfeiting and sale of counterfeit stamps are included. In undue multiplication of offences for the intimation of which private persons are held responsible there is always the danger of drawing the attention from even more serious offences.

Cl. 9 gives the power of arrest to private persons where a reasonable suspicion exists that a person has committed a non-bailable and non-compoundable offence. It is stated that this would bring the Indian Law in a line with the English. But under the English Law, as authoritatively declared by the Chief Justice Lord Reading in (1914) K. B. 595, the power does not seem to be so wide as sought to be conferred by this clause. In England, whereas a policeman can arrest whenever there is a reasonable suspicion that a person has committed a felony, a private person can arrest only when in fact a felony has been committed and there is reasonable suspicion that the person arrested has committed the offence and the offence for which he is arrested must be identical with the offence which is found to have been committed. This is very different from the law as sought to be enacted and the change seems to be hardly desirable in the conditions of this country. If owing to the reduction in the number of police stations, it is found necessary that power should exist in persons other than policemen to arrest on suspicion, the object may, we think, be sufficiently attained by empowering village officers or other responsible men in the village to be nominated by the District Magistrate to arrest if need be. One cannot help feeling that power so generally conferred as the clause contemplates is sure to be abused by being converted into a means of satisfying private grudge or wreaking private vengeance.

Cl. 10 introduces service of summons by post. This mode of service is not generally adopted even in civil cases and seems

to be specially objectionable in criminal cases where the consequences of noncompliance with the Court's order are so much more serious.

Cl. 12 by adding a clause to S. 103 seeks to penalise non-attendance of private persons at search. Such a clause might be necessary but to guard against vexatious prosecution, it is essential that it should be enacted that the requisition should be in writing and duly served, that the service should be in the presence of witnesses and that a book with counterfoils should be used for such requisitions.

Cl. 13 adds offences "likely to cause breach of the peace" to offences on conviction for which security may be ordered. The offences that would come within the definition are apparently confined to Ss. 504 to 506 (Insult). No grounds are stated for the addition nor is the nature of the offences such as to call for the change.

Cl. 16 gives power to demand security pending inquiry in good behaviour cases. Having regard to the sort of persons who are likely to be dealt with under the section and the possibility of the change of preventive proceedings being converted into punitive by undue prolongation it seems to be specially desirable that a time limit should be fixed beyond which the order should not operate without the sanction of a superior authority like the District Magistrate.

Cl. 19 introduces a change into S. 133 by giving the magistrate power to adjudicate finally not only that there is danger to the public but also that the place is a public place. Having regard to the nature of the questions at issue in a matter like this trial by jury is hardly likely to be an adequate substitute for a regular civil trial and the least that seems to be necessary to safeguard private rights is to give a right of appeal to the Sessions Judge on the question.

By cl. 27 it is proposed to allow the use of statements to the police also to corroborate statements at the trial when permission is given to use them for contradicting them. Advantage should be taken of this opportunity to state definitely to what extent statements to the police generally should be used to corroborate statements made at the trial. There is the danger of

the object of the section being frustrated by oral evidence of statements being given.

Cl. 36 cuts down the right of appeal in sanction cases. To this there might be no objection though it is desirable to give a right of further or second appeal where the first court refuses sanction and the appellate court grants it; but the declaration of policy involved in sub-clauses (9) and (10) of cl. 36 it seems to us, is to be strongly deprecated We cannot understand the wisdom of the policy which requires prosecution to be launched on a sanction when an appeal is pending against the judgment in the main case. It would be placing a means of oppression in the hands of one of the parties, not to speak of the possibility of unseemly conflicts between the decisions of civil and criminal tribunals. Having regard to the proportion of cases in which appeals succeed in this country on mere questions of fact, it is quite as often likely as not that the event might prove that sanction ought not to have been given.

Cl. 51 seeks to give the court power to convict a person for abetment though he is charged only for the main offence. S. 236 is sufficiently wide to give the Court power to convict for abetment even though a person is not charged with it and wider power does not seem to be called for.

Cl. 52 permits joint trial of offenders on a larger scale than at present, for instance it is sought to permit the joint trial of persons charged with theft and receipt of stolen property. It is also sought to extend the number and nature of offences for which a person can be tried. The danger of evidence given with respect to one man or one offence reacting on evidence given with respect to another man or offence is so great that one views with apprehension all proposals for change in this direction. The English law does not permit of such joinder.

When in the pettiest of civil cases, parties have the right to have witnesses summoned it is impossible to understand why restrictions should be placed on the right of the accused. Six month's imprisonment is not so trivial a thing as to justify a different treatment in this respect from civil cases. In this view, we have strong objection to the cutting down of facilities for summoning witnesses involved in cl. 54.

Cl. 91 gives Court power to direct a sentence of imprisonment to commence after a period of detention for not furnishing security under the security sections. This conversion of detention for preventive purposes into punishment is indefensible on principle and no reason is suggested why it should be so converted.

Cl. 112 proposes a change from Rs. 50 to 100 as the maximum maintenance awardable under S. 488. We think that Rs. 50 is a sufficiently high sum in the circumstances of this country and the award of higher maintenance might be left to civil courts.

Cl. 122 gives effect to the judgment of Benson and Sundara Iyer JJ. in *Ramasami Iyer* v. *Venkatesvara Iyer* [1]. Power to confiscate is a dangerous power and we think it only reasonable that the limits of that power should be strictly defined.

Cl. 130. We must confess we are not convinced of the necessity for the proposed new sec. 539-A. The powers that exist are quite sufficient to protect the Subordinate Magistracy against wholly unfounded attacks. One is not certain if the section is not largely superfluous. That af[illegible]vits should state separately facts which the deponent is able [illegible]rove of his own knowledge and facts to which he deposes on h[illegible] own information is an ordinary rule as to affidavits and the power to order the deleting of scandalous matter in any pleading inheres in every court. S. 540 gives the Court power to summon any person as a witness. The invidious difference made in favour of officials is likely to be mistaken for an unhealthy sensitiveness to attacks against officials. It arms the Magistracy with a power full of dangerous possibilities which we think is to be deprecated.

Cl. 131 requires some limitation words to the effect "on the application of the accused or his pleader" should, we think be inserted in the proposed Sec. 540-A. The power is one that may be abused. The limitation proposed by us will ensure that no hordship results to the accused.

SUMMARY OF ENGLISH CASES.

Dodd v. Cattell, 1914, 2 Ch. 1.

Partition—Jurisdiction—Common law, Equity—Overriding term.

The jurisdiction of courts to order a partition of fee simple estates or terms existed at common law in the case of co-parceners. By the statute of 31 Hen. 8 Ch. 1. it was extended to

1. (1912) 24 M.L.J. 1.

the case of joint tenants and tenants in common in fee; and by the statute 32 Hen. 8. Ch. 32, it was further extended to the case of joint tenants or tenants in common for life or years or where one was entitled for life or years. In courts of equity as well as in those of common law, the existence of a joint tenancy or a tenancy in common is essential to the jurisdiction. If there is any active over-riding trust which cannot be put an end to by some only of the persons entitled, the jurisdiction will not be exercised. Where land is subject to an over-riding term limited upon trusts for management which requires possession of the entire lands to remain with the trustees, during the continuance of the term, there is no right to partition.

Hewson v. Shelley, 1914, 2 Ch. 13. (C. A.)

Letters of administration—Administrator—Sale of free hold property by—Subsequent discovery of will—Executor—Probate—Revocation of Letters of Administration—Validity of title acquired by purchaser—Land Transfer Act 1897, Ss. 1, 2, 11 and 24.—Conveyancing and Law of Property Act, 1881, S. 70.

Where a testator was believed to have died intestate and letters of administration were granted to his widow and she sold realty as personal representative of the testator by virtue of Land Transfer Act, 1897, to the defendant, and subsequently the will of the testator was discovered which appointed executors who obtained probate and cancellation of letters of administration. *Held* on a suit by the executor to recover the property from the defendant, the purchaser from the administrator, the sale to the defendant before the discovery of the will, by the administrator in due course of administration was valid and passed a good title to the property to the defendant *Graysbrook* v. *Fox*; [1] *Abrahain* v. *Cunninham* [2] *Ellis* v. *Ellis* [3] overruled.

The order granting administration to the widow is a judicial act and even if that act could be held void on the ground of want of jurisdiction, the title of the purchaser would be protected under S. 70 of the Conveyancing Act.

(Ed. The history of the law on the subject by Phillimore. L. J. in his Judgment is well worth careful attention.)

1. (1565) 1 Plowd. 275. 2. (1677) 2 Lev. 182.
3. (1905) 1. Ch. 613.

Wood *v.* Conway Corporation, 1914 2 Ch. 47 (C. A)

Nuisance—Injunction—Damages—Discharge of noxious gas—Damage to trees on plantation—No dwelling house affected—Depreciation in value.

The plaintiff, the owner of property consisting of dwelling house used by himself, gardens and parks &c. brought an action restraining the defendants, the owners of gas works adjoining, from carrying on upon their gas works the business of manufacturers of gas, so as by the discharge of noxious or offensive fumes or vapours to cause a nuisance to the plaintiff's property or to the plaintiff or to the members of his family or servants, and also for damages.

It was found that by the ever increasing discharge of noxious gas from the defendants' works, some trees in the next adjoining park of the plaintiff were dead and others were dying; and that the plaintiff's residence was not in any way affected.

Held the act of the defendants amounted to legal nuisance to the plaintiff's property and as its duration was to be long continued and the damage could not be assessed with certainty; the plaintiff was entitled to the injunction prayed for.

In answer to argument of counsel that there was no house within the affected area and no occupier who could suffer by the nuisance and consequently, no cause of action, per Buckley L. J. "The true rule of law is that if any owner of property be it a house or a garden or a park, or anything else, not necessarily a house or a structure at all, is so substantially injured in the reasonable enjoyment of his property, as that he sustains that which is equivalent to a legal nuisance, he is entitled to an injunction to restrain the continuance of that nuisance."

In re **Williams Metcalf *v.* Williams,** 1914, 2 Ch. 61 (C. A.)

Will—Construction—"Child or Children of one who shall die in my life time—" Words of futurity—Whether includes child dead to the knowledge of testator at the date of will.

A testator bequeathed £250 to his grandchildren John and Grace, the children of his son, Philip who had, to the knowledge of the testator, died at the date of the will, and later on in the will, directed of the residue "if any child of me shall die in my life time leaving a child or children who shall survive me..........,

the last mentioned child or children shall take to share which his, her or their parent would have taken of and in the residuary trust funds." On a summons taken out for the determination whether John and Grace took a share of the residuary estate.

Held, they were entitled to the residue which their father would heve taken if he had been alive.

"Shall die" should be understood in the sense of "shall be dead."

In re **Benson** *v:* **Bower Chetwynd.** 1914, 2 Ch. 68 (C. A.)

Bankruptcy—Donee of a general, Testamentary power of appointment—Bankrupt not discharged—Creditors prior to bankruptcy—Whether can proceed on the appointed fund—Bankruptcy Act, 1883, S. 9 Statute—of Limitations, 1623—Running of time.

A donee of a general testamentary power of appointment over a sum of £ 15,000 was adjudicated a bankrupt in 1890 and his creditors got some dividends. Subsequently in 1892; he was again adjudicated bankrupt but no dividend was paid. He was not discharged in either the former bankruptcy or the latter. In 1911 he died having exercised the testamentary power. The creditors in the bankruptcies claimed to be paid the balance of their debts in the administration proceedings.

Held, per Warrington J. the creditors in the bankruptcies were precluded by S. 9 of the Bankruptcy Act from proceeding against the appointed fund following *In re Guedalla* [1].

Held by the Court of Appeal (1). The cause of action for the creditors was the old debt; the exercise of the power of appointment and death which made the fund available as assets is merely a new remedy and not a new cause of action.

(2) Time having commenced to run from the date of the cause of action, the date when the debt was due, subsequent bankruptcy does not stop the running of time.

The principle of the rule, that if the statute once begins to run it continues to run whatever happens, appears to be that if any man has a cause of action which is ripe so that he has an opprotunity of bringing his action and does not do so, he thereby takes the risk of some unexpected event happening which takes away from him the possibility of bringing his action within the remainder of the period which he has under the statute.

---

1. (1905) 2 Ch. 331.

In re **Drummond Ashworth *v.* Drummond,** 1914, 2 Ch. 90.

Will—Construction—Charity—Contribution to workpeople's holiday—Perpetuity—Gift to club—Purposes to be determined by Committee—Validity of.

A testator bequeathed to his trustees certain shares in a Company to pay the income arising therefrom to the directors of the Company for the purpose of contribution to the holiday expenses of the work people in the spinning department of the Company in such manner as a majority of the directors in their absolute discretion think fit; and if the Company should at any time be wound up, then the testator directed the trustees to pay the money received by them in respect of the shares to the Governors of a Grammar School, upon trust as therein mentioned. The testator further directed the trustees to stand possessed of the residue upon trust for old Bradfordian's Club, London (being a club instituted by Bradford Grammar School old boys) the receipt of the treasurer of the club being a sufficient discharge to the trustees. It was declared that the residue should be utilised by the club for such purposes as the committee might determine. In the spinning department, there were about 500 workpeople mostly girls on 15 Sh. a week; and a dozen overlookers. On 36 Sh. a week; and there was a holiday fund to which the employees might contribute and which was augmented by the contributions from the Company.

Held, the trust for the holiday fund is a trust for private individuals and not for general public purposes; as being, therefore not for a charitable purpose the trust is void for infringing the rule against perpetuties.

The alternate gift to Grammar School also fails.

As for the club, there a valid gift for such purposes on the committee should determine for the benefit of old boys or members of the club.

Keen *v.* Price, 1914, 2 Ch. 98.

Partnership—Suit for accounts—Business of betting and bookmaking—Profits—Refund of Capital—Gaming Act, 1892.

After the Gaming Act, 1892, a suit will lie by one partner against the other for accounts of a betting and book-making business; the plaintiff will be entitled to recover the advances

made by him not applied in the payment of bets; the defendant may object to the payment of profits.

The decision of Chitty J. in *Thwaites* v. *Coulthwatie* [1], though good under the general law cannot be regarded on a decision under the Gaming Act, 1892.

JOTTINGS AND CUTTINGS.

Mr. Spooner and the Supreme Court.—Mr. John C. Spooner, for many years accounted one of the best lawyers in the Senate, was one day, some time after his retirement from that body and entrance upon the practice of law in New York, approached by a member of the bar of that city, a man of most patronizing manner.

"I see, Spooner," said he, very loftily, "that the Supreme Court has overruled you in the case of *Smith* v. *Jones*. But," he added, "you, Spooner, need feel no concern about your reputation."

Mr. Spooner chuckled. "Quite so," he agreed. "I am only concerned for the reputation of the Supreme Court." (*The Green Bag*).

***

Lord Norbury and the Shyster.—The English Judge, Lord Norbury, had been annoyed by the presence of "shysters," who hung about the criminal courts seeking to pick up a client.

It happened toward the close of a court session. A seedy-looking solicitor was "prospecting" for business in the prisoners' dock. Just as he was climbing back over the rails, his Lordship called out:

"Jailer, one of your prisoners is escaping! Put him back!"

Back the solicitor was put, and then the following colloquy ensued:

"My Lord, there is a mistake here. I am an attorney."

"I regret exceedingly," said Lord Norbury, "to see one of your profession in the dock".

"But my Lord, I am innocent."

"Yes," said his Lordship, "they all say that, but a jury of your fellow country men must settle it."

"But, my Lord," continued the solicitor, now growing desperate, "there is no indictment against me."

1. (1896) 1 Ch. 496.

"Then," said his Lordship, "you will be put back, and if no one appears to prosecute you, you will be regularly discharged by public proclamation at the end of the assize." (*The Green Bag*) *Vol. XXVI No. 9th September 1914.*

***

At Bodmin Assizes once, a barrister, while pleading, was interrupted by the Judge:

"Mr. Carter, you are wasting the time of the Court."

"Time of the Court," retorted the truculent veteran, glaring fiercely at the Bench, "your Lordship means,—your Lordship's dinner!"

The Judge threw up his hands, in despair, and Carter continued his harangue in peace.

The same redoubtable advocate was on another occasion defending a man charged with obtaining money under false pretenses.

"False pretenses!" said he, with fine scorn. "Why, we all make them every day, barristers and solicitors and Judges—the whole lot of us. Talk about the purity of the Judicial ermine!" Here he pointed derisively to the learned judge, who sat cowering on the Bench. "Why, it's only rabbit skin!"

Shouts of laughter greeted this irreverent statement, with investigation would probably show to be literally true. (*Tit-Bits.*)

***

Unwary Citizens and Emergency Laws.—If the familiar rule, *Ignorantia legis neminem excusat,* holds good in times of peace, still more important is it when the nation is in arms. Yet, amid the multitude of Rules designed, for the protection of the realm since the outbreak of the war, the innocent citizen may easily go astray. Take, for instance, some of the Regulations which have been issued under the Defence of the Realm Act, which was passed immediately war was declared. "No person shall, with the intent of eliciting information for the purpose of communicating it to the enemy, or for any purpose calculated to assist the enemy, give or sell to a member of any of His Majesty's forces any intoxicating liquor (Regulation 17). The Regulation, so far, is clear

and reasonable enough, but it proceeds : ' And no person shall give or sell to a member of any of His Majesty's forces employed in the defence of any railway, dock, or harbour any intoxicating liquor when not on duty, with intent to make him drink, or when on sentry or other duty, either with or without any such intent.' If, then, the occupier of a house with a garden running down to a railway gives a glass of beer, in a pure spirit of friendship, to a member of a Territorial force who is on sentry duty at the bottom of his garden, he is liable, according to the Regulations, 'to be tried by court-martial, and to be sentenced to penal servitude for life or any less punishment. It is, no doubt, a very wise regulation, but a perfectly loyal citizen, unacquainted with all the rules which have been properly framed for the safety of the public, and moved by an innocent, if mistaken, sense of hospitality, might easily be tempted to violate it. Some of the Regulations show how largely the ordinary habits of citizens may become serious offences in time of war. Here, for instance, is a Regulation relating to the lighting of fires : ' No person shall, if an order to that effect has been made by the competent naval or military authority, light any fire or show any light on any hill within such radius from any defended harbour as may be specified by the order.' And here is another : ' The competent naval or military authority at any defended harbour may by order direct that all lights, other than lights not visible from the outside of any house, shall be kept extinguished between such hours and within such area as may be specified in the order'. So that, if the competent authority make such an order, the citizen who happens to live on a hill near a defended harbour, must not burn the leaves that strew his garden, and he must, unless his bedroom windows are thickly veiled, go to bed in the dark. But here, no doubt, the order of the naval or military authority would be sufficiently local in its application to make it impossible for him not to be acquainted with it, and in all cases, of course, the convenience of the individual must in the present crisis give way to the security of the State. *The Law Journal, 3rd October* 1914).

***

Novels and the Law. Many eminent novelists—Walter Scott, Charles Reade, R. L. Stevenson, and R. D. Blackmore

among those who have passed away, and Sir Rider Haggard, Mr. Anthony Hope, Mr. Stanley Weyman, and Mr. Anstey among those still with us—have had no need to seek legal assistance in the construction of their plots, since they themselves are to be numbered among the members of the legal profession. There are less celebrated writers of fiction who would have been wiser if, like Charles Dickens and George Eliot, they had procured a legal friend to look at their pages before they published them. In a newly published novel, which has been treated rather kindly by some of the reviewers, the hero, who is a young and successful member of the Bar, is made to express his readiness to leave the 'Inner Temple', on a week-end visit to a country house, and to give this strange explanation of his professional progress: 'The fellow for whom I devilled had a stroke at the very moment when I was in the position to take on the best part of his practice. Otherwise, I should still be pegging away doing another man's work, and glad of a county court brief at five guineas.' No wonder the pubic believe that litigation is too costly when members of the Bar are made to speak so scornfully of county court briefs marked five guineas! Probably no novelist was so fortunate as George Eliot in her legal advisers. She consulted Mr. Frederic Harrison, who was a practising Chancery barrister before he turned to literature and politics, as to the intricate legal imbroglio in 'Felix Holt,' and Mr. Harrison, before he finally advised the famous novelist, sought the assistance of a fellow barrister upon it. That member of the Bar, then, of course, a junior, was the late Lord Herschell! He was not the only distinguished judge who had indirectly a hand in one of George Eliot's novels. The late Lord Bowen was consulted by the famous authoress on an incidental point of law in 'Daniel Deronda.' But if all novelists were equally prudent and conscientious a good many works of fiction would be less amusing to legal readers. (*The Law Journal*, 3rd October 14).

***

The Appellate Courts. Neither the Judicial Committee nor the House of Lords, both of which resumed their sittings on Tuesday, has yet been affected by the war. The Judicial Committee's list contains 26 appeals, two-thirds of which were entered

before the war began. India, as usual, supplies the Committee with the bulk of its business; from the Indian Courts there are sixteen appeals. Canada supplies four, Australia two, and South Africa, Ceylon, Southern Nigeria and Jersey one each. It used frequently to be complained that the Judicial Committee was dilatory in the delivery of its reserved judgments. For some considerable time all occasion for this complaint has been removed, but some recurrence of it is to be noticed in the present list. Two appeals stand for judgment which were argued in May last—surely an unnecessarily long time, however important the questions to be determined, to keep the parties in suspense. The House of Lords' list is rather longer than usual. It contains 31 appeals, of which twenty-three are from England, six from Scotland, and two from Ireland. The six Lords of Appeal in Ordinary include three Englishmen—Lord Moulton, Lord Parker, and Lord Sumner—two Scotsmen—Lord Shaw and Lord Dunedin—and one Irishman—Lord Atkinson. The proportion of work supplied by England is always much larger than the number of Law Lords who belong to it. (*The Law Journal, 24th October* 1914.)

***

Alien Enemy's Right to sue. Two interesting cases raising the questions of an alien enemy's right to sue or defend came before the Courts last week and gave occasion for judgments of far-reaching importance. In the first (*Princess Thurn and Taxis* v. *Moffitt*) the defendant applied to a judge of the Chancery Division, in which the action was brought, that all proceedings by the plaintiff in the action might be stayed on the ground, *inter alia* that the plaintiff was an alien enemy and thereby disentitled to relief in that Court. The plaintiff's principal claim in the action was to restrain the defendant from continuing certain alleged libels to the effect that the defendant, and not the plaintiff, was the real wife of Victor, Prince of Thurn and Taxis, while the defendant counterclaimed for similar relief to herself. Both the ladies concerned apparently were originally American subjects, and it was a piquant feature of the proceedings, that the objection of alienage could only be sustained against the plaintiff if she were right in her contention as to the validity of her marriage with the Prince, while the defendant would be subject

to the same objection if her counterclaim were sustained. Since the action was begun the plaintiff had duly registered herself as an alien and Hungarian under the recent Act 4 & 5 Geo. V. Cap. 12, and it was strongly urged on her behalf that, having complied with the law of this country and come under the protection of the Government, she was entitled to sue in the Courts. Mr. Justice Sargant adopting that view that the recent Act with proclamations under it, amounted to a command to stay in this country and within a particular area, and the plaintiff had by her registration under the Act acquired the right to enforce her claim, notwithstanding the state of war existing between the two countries. The rule is correctly stated in Hall's 'International Law' as follows :—

"When persons are allowed to remain, either for a specified time after the commencement of war or during good behaviour, they are exonerated from the disabilities of enemies for such time as they in fact stay, and they are placed in the same position as other foreigners, except that they cannot carry on a direct trade in their own or other enemy vessels with the enemy country."

That proposition was supported by the case of ***Wells*** v. *Williams* (1 Lord Raymond, 282) and there can be no doubt as to its proper application in this curious contest. (*The Law Journal. 24th October* 1914.)

***

K. C'.s and Tips. The ungrudging hand with which the present Lord Chancellor is distributing 'silk'—he has appointed forty-six King's Counsel in little more than two years—has been the subject of comment in some quarters. Nowhere, we imagine, has the criticism—whatever may be its worth—been rejected more scornfully than by the humbler officials of the Courts. Sir Walter Scott observes that liberality is the quality most valued by the poorer classes, because they derive more benefit from it than from any other. To no ceremony in the legal world, however, ancient and significant, can a deeper importance be attached by these minor officers than to the procession of newly-created K. C'.s through the courts for the purpose of being called within the Bar. Every new 'silk' is required, in addition to the

monetary gifts which, by virtue of a more fitting custom, he presents to his clerks to expend about 10*l* in tipping various officials who have the remotest connection with the ceremony. No newly-made K. C., we imagine, makes any serious objection to meeting the immemorial demands of ushers and attendants. He may well wonder, however, why he should be required to present one guinea and a half to the Lord Chancellor's messenger and an official of the Crown Office, and still more, why he should be compelled to pay one guinea for having his card printed and left on the Judges by a clerk, who asserts a customary right to perform the function. The amounts, if modest in the single case, assume of course, very respectable proportions when they are multiplied by fifteen, as they are this year. They are, indeed, sufficiently large to suggest that the recipients might modify their claims without, like Clive, being astounded at their own moderation. (*The Law Journal, 24th October* 1914.)

CONTEMPORARY LEGAL LITERATURE.

In *the International Law Notes on the War,* in the Law Journal for Oct. 10th, the writer discusses the situation that is raised by conflict between the rights of the belligerent and the neutral. For instance the wholesale mining of the North Sea by Germany has made it necessary for England also to retaliate and the result is great detriment to neutral trade. It is notorious that North Germany depends to a great extent for its supplies on the port of Rotterdam and that secondly in virtue of the Rhine Acts the Dutch are prevented from stopping goods going on to Germany by river on through bills of lading. A neutral State is not bound to prevent its citizens from trading with the enemy but if it allows its territories to be made into a regular base for supplies to the belligerent, it is certainly committing a breach of neutrality. As Holland under her treaties is not in a position to effectively control traffic with Germany, England claims the right to detain even conditional contraband unless an undertaking is given that it would not be permitted to proceed to enemy's territory. Though under ordinary conditions the steps taken might be considered extreme, the somewhat peculiar conditions of this war justify them. Another difficulty has arisen with regard to combatants

on board Neutral Vessels. England's claim to take off German and Austrian reservists from on board American Steamers has given rise to protests from the United States of America. Though consideration to neutral trade has put a check on the power of the belligerents to seize neutral vessels carrying alien forces except when they are made into regular transport ship, their right to seize individuals on board the ships seems to be clear. What is more doubtful is whether the right extends to capturing persons who are not enrolled in the regular forces of the country but are simply proceeding with a view to enlist on a call from their Sovereign. There could be no question that the belligerents are entitled to search a neutral vessel to see if any one belonging to the enemy forces is there. A great American jurist remarked of Stowell's Judgments that they always showed a bias in favour of the captor. But the Crown seems likely to play a reforming part in Prize Law as it did centuries ago in the development of English Law. The abolition of the old practice of distributing prize money among the captors gives it great facility in acting in this direction.

In the issue of Oct. 17th the writer describes the various ways in which England is carrying on an economic war against Germany. A notice has been issued requiring declarations in respect of all exports from the United Kingdom as to the ultimate destination of the goods and except in case of foodstuffs, a certificate as to the innocent origin of the goods imported from Holland, Italy and the Scandinavian countries. The object is absolutely to prevent all trade directly or indirectly with Germany. Similarly the English Insurance Companies are prohibited from honoring or having insurance contracts with Germans or German Companies.

The fact that the Dutch own the mouth of the scheldt has been causing considerable embarrassment to the allies. They have prohibited the carrying of prize vessels by the allies from Antwerp into the open sea. It is to be seen whether they will maintain the same rigid impartiality towards the Germans.

A notice issued by the Board of Trade draws the attention of insurance companies to the rule that it is illegal for them to insure neutral vessels or goods against capture by Britain or her allies. Though the neutral trader is not engaged in an illegal

traffic by selling contraband to the enemy for which our civil courts could treat the contract as null and void he is engaged in a trade which is against public policy for any English person or firm to support or further in any way. English Insurance Companies may still cover neutral cargoes on the sea, even when they are destined for countries neighbouring to the enemy territories provided there is a warranty free of capture or detention by the English or allied forces. (*Law Journal 24th Oct.* 1914.

In the Greenbag for September Mr. Harrison J. Conant describes "the great judicial services" of Lord Mansfield. He is according to the writer the most noteworthy example of a judge who was able to overcome the professional conservatism of the lawyer. Mansfield never allowed his respect for precedent to allow justice to suffer. He is known as the father of English Commercial Law. He lived at a time of great Commercial progress and built up a body of law adapted to the needs of the time. He moulded the customs of trade into a well-defined practical and just code of law. His methods are of peculiar value at the present moment when new economic conditions are presenting peculiarly difficult problems to the lawyer and the judge. He always generalised from the particular facts of every case a basic principle founded upon sound policy and natural justice. He was always ready to recognise exceptions when the reason of the rule did not apply and new conditions made the application of the old rule unjust. He subjected all new customs to strict examination by reference to a high ethical standard. He was intolerant of technicalities and considered it the duty of the Court to see that justice was not defeated by technicalities. In the discharge of his duties, he feared neither the King nor the press. He wished popularity, he said on one occasion but it was that popularity which follows, not that which is run after.

Another writer in the same Journal gives a bibliographical introduction to the study of the Chinese Law. The Chinese Law has a long history and is highly elaborate. The most comprehensive source for the study of modern Chinese Law is the Manchu Code promulgated in 1647 under the Emperor Shunchi, the first of the late Manchu dynasty. It deals with all

branches of law including testamentary law and trusts. The family law is of course the most important and distinctive. The criminal law of the Chinese punishes more acts than any other system of jurisprudence—in this matter it is the very converse of Roman Law. Under the influence of modern notions, an adaptation of the Japanese Code now takes the place of indigenous criminal law. The Chinese law is distinguished by great respect for precedents. The body of law above referred to consists after the manner of Justinian's Code, of the original laws and the latter or supplemental laws and regulations.

The writer of the international Law notes in the Law Journal of October 31, justifies the seizure of the German ships in the Suez Canal on the ground that indefinite lying up in neutralised waters to evade capture is an abuse of the privileges which neutralisation offers to peaceful shipping of the belligerents. He compares the procedure to that adopted during the American Civil War to prevent a Federal ship by alternately putting out to sea and returning to port within 24 hours, practically interning a confederate ship which according to the then English rule could not leave the port within 24 hours of the belligerent leaving the port. He also notices a recent case which decides, no doubt in accordance with precedents that transfer of a German ship to an English company in anticipation of war is void and that whoever the proprietor of the ship if it flies the enemy flag, it is liable to capture, the flag being conclusive against the owner. It has also been decided that English Companies substantially owned by Germans and doing similar business with German Companies abroad whose branches they practically are, are enemy firms within the meaning of Prize Rule.

Mr. William Gretinger traces the varying fortunes of the lawyer's fee during the Roman Empire how the Cencian Law forbade the receipt but having failed to provide a penalty became a dead law, how Augustus for a time revived the Cencian Law attaching penalties for the breach but, how after sometime he allowed them, how the later Emperors required that the fee should be received only after the case was over, how this system of gratuities led to abuse by putting the business of law into the hands of freedmen and plebeians who fomented litigation to make a living and how to maintain the very purity of the profession it is

necessary to have a fair remuneration paid to counsel. He enumerates the circumstances that may legitimately be taken into account in fixing fees. (i) The time and labour required, the novelty and difficulty of the points involved (ii) whether the appearance in that case might preclude his appearance in other cases to his detriment (iii) customary charges of the bar for similar service (iv) the amount involved in the controversy (v) the contingency or certainty of compensation (vi) whether the client is a casual or permanent one.

BOOK REVIEWS.

THE LAW RELATING TO BURDEN OF PROOF. *By T. Narasimhachari, Esq., B. A., B. L. of the Madras Provincial Civil Service, Judicial Branch.*

This little book contains a concise and well-arranged collection of the principles relating to burden of proof. The authorities bearing on the principles stated are exhaustively collected in the footnotes. The subject is not one on which practitioners are likely to get much assistance from the digests and a book like this must on this account be all the more welcome. We commend this as a useful publication.

PROCESS SERVER'S MANUAL. *By Daniel Chellappa, B. A., B. L., under the supervision of H. Moberly Esq., I.C.S.*

An unpretentious but very useful compilation. The process-servers as a rule are drawn from a class who cannot in the nature of things be expected to ascertain for themselves, the duties they have to perform by reference to original authorities. Unlike the Police constable who is carefully taught what his duties are, the process-server who is to perform no less important functions is left to take care of himself, with what results we know. This book will go a great way towards remedying the defect. Its range of usefulness is considerably enlarged by being translated into Tamil and Telugu. We hope it will soon be translated into all the Vernaculars of the Presidency.

THE LAW OF TRANSFER IN BRITISH INDIA *By Dr. H.S. Gour: Published by Thacker, Spinck & Co., Vol. I. Price Rs. 10.*

By its exhaustive treatment of principles, by its careful statement of English law, and by its accurate summary of the

case law as it stands, Dr. Gour's work on the law of Transfer has made itself an indispensable item in every lawyer's library in this country. It is hardly necessary for us therefore, to comment on its usefulness or its excellence. That the work should have run through four editions in the short space of thirteen years though the volumes have been growing in size and with it, naturally in price, is in itself an index of its wide popularity. Not that they are too highly priced; for a volume of 750 pages on a legal subject so ably dealt with, it could certainly not be said that 10 Rs. is too high a price. One great improvement in this edition over the last is the topical index given at the end of the volume. The case law has been brought thoroughly up to date and in some parts the text too has been revised. Though there has been some increase in size as a result, there is no corresponding rise in price and all those that register their orders now are given the privilege of getting the succeeding volumes also at the same price though changed conditions might require an alteration in the price. The present edition maintains to the full the finish and the get up of the last.

A DIGEST OF CIVIL LAW BK. III. SEC. XII TO XVII *By Edward Jenks, M.A., B. C., L. Published by Butterworth & Co.*

This volume of Jenk's well-known digest deals with the topics of Choses in action, ineffectual alienation of property co-ownership and trusteeship. The definition of Choses in action is interesting and reminds one of the manner in which torts are defined. They are said to include all kinds of incorporeal personal property other than (i) rights immediately connected with land (ii) right to sue for unliquidated damages (iii) rights arising by virtue of trust (iv) rights to shares in the estates of deceased persons (v) and negotiable instruments *e. g.*, debts. Copyrights, patents, trade marks, goodwill and shares and stocks are dealt with under this heading. Under the heading of ineffectual alienations, rules against fraudulent alienations and perpetuities are dealt with. The latter rule is said by the learned compilers to apply among other things to covenants to convey, options to purchase, creation of charges in future, and of future easements but not to mere personal covenants or to contracts for

renewal of leases. Co-ownership is dealt with under the usual headings of joint ownership, ownership in common and co-parcenership. The volume maintains the reputation of its prodecessors and is bound to be useful to the legal profession.

AUTOBIOGRAPHY OF MR. TACT, THE JUDGE'S SHERISTADAR, *Published by Messrs. P. R. Rama Iyer.*

In the form of a dialogue between a Sheristadar and his friend, the writer gives an amusing picture of a type of official who happily with the spread of education and higher ideals is fast disappearing. The petty annoyances to which it is in the power of a Sheristadar if he is only unscrupulous to inflict upon the legal profession and the litigant public without contravening any provision of law or official, propriety are very skilfully delineated in this book. If anything, the writer we think has demonstrated that the powers of that office should be in the hands of a more highly paid official at all events that it should not come to a man at the end of a long career of low paid service but must form the stepping stone to higher service. Even to a highly educated man, a low pay after long service and heavy expenses must be enough temptation to resort to the methods of the Sheristadar by which he can make up for his small pay with the additional advantage of not being detected.

CASE NOTED CIVIL PROCEDURE CODE AND LIMITATION ACT *By T. R. Desai B. A, L. L. B. Vol 1* :

As a handy book of ready preference, we have no hesitation in commending the book to the profession. The notes are brief and are confined to the salient points in each section. Nevertheless no case of importance bearing on the sections seems to be omitted. Students are likely to find the book specially useful. Changes made in the new Acts are noted under each section and wherever cases have been overruled by changes in the statute attention is pointedly drawn to that fact. The reasons for the change are noted in an appendix. For the benefit of students appearing for law examinations, a special supplement containing examination papers, definitions of technical terms, leading points &c., are given.

THE PROVINCIAL INSOLVENCY ACT *By Mahim Chandra Sarkar* 1914 *Published by Rai M.C. Sarkar Bahadur and Sons.*

Yet another book from the pen of Mr. Mahim Chandra Sarkar, Retired Sub-Judge and author of Civil Procedure, Evidence and Specific Relief Acts and as usual with him well done. The difference between the insolvency provisions of the old C. P. C. and the provisions of the present act are clearly pointed out. As the Indian Act is more or less moulded on the English Bankruptcy Acts, reference is given to the corresponding provisions of those acts and the English cases that explain them. The respectable body of case law that has already grown up around the numerous sections of the act is carefully digested. The Rules are printed in appendix. We have no doubt that the book will be found useful by the profession.

BENCH AND BAR DIARY (1915) *Published by Rai M. C. Sarkar Bahadur and Sons.*

A nicely bound diary with a lot of useful information pertaining to the daily routine of lawyers, Court-fees, stamp duties, periods of limitation &c. The pages are sufficiently big for all ordinary purposes.

THE ENFORCEMENT OF LAW *By Robert McMurdy.*

This is an address by the President of the Illinois Bar Association. It is an appeal to the Legal profession to devise means to put an end to that blot on American civilization *viz.*, lynching. He proposes the passing of a uniform law requiring the executive in each state to suppress lynching with the strong hand of the law.

SYNOPSIS OF HINDU LAW and MAHOMEDAN LAW *By H.C. Sen. B. A., Vakil, Lucknow.*

We confess we are not in favour of books like these but so long as their publication cannot be prevented, it is something to have accurate ones like the one before us. A curious feature of the book, perhaps indicative of the practical importance of the study of Mahomedan Law in the province from which the book comes, Mahommedan Law takes up a larger part of the book than Hindu Law.